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Attorneys for Plaintiffs,
SONY BMG MUSIC ENTERTAINMENT;
ARISTA RECORDS LLC; UMG
RECORDINGS, INC.; and ELEKTRA
ENTERTAINMENT GROUP INC.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

SONY BMG MUSIC ENTERTAINMENT, a
Delaware general partnership; ARISTA
RECORDS LLC, a Delaware limited liability
company; UMG RECORDINGS, INC., a
Delaware corporation; and ELEKTRA
ENTERTAINMENT GROUP INC., a Delaware
corporation,

Plaintiffs,

v.

JOHN DOE,

Defendant.

CASE NO. 3:07-CV-04859-CRB

Honorable Charles R. Breyer

***EX PARTE APPLICATION TO CONTINUE
CASE MANAGEMENT CONFERENCE
AND [PROPOSED] ORDER***

1 Plaintiffs respectfully request that the Court continue the case management conference
2 currently set for April 4, 2008 at 8:30 a.m. to July 11, 2008. As set forth in greater detail below,
3 Plaintiffs have not yet discovered the true identity of the Doe defendant in this case, and will be
4 unable to do so unless the Court grants Plaintiffs' *Ex Parte* Application for Leave to Take Immediate
5 Discovery, filed on September 20, 2007 and entered as Docket No. 3.

6 1. The Court issued a December 26, 2007 Order granting Plaintiffs' previous request
7 (made on the same grounds stated herein) for a 90-day continuance of the case management
8 conference and 120-day extension of time for service of process.

9 2. Plaintiffs filed the Complaint for Copyright Infringement against Defendant John Doe
10 ("Defendant") on September 20, 2007. Plaintiffs did not have sufficient identifying information to
11 name Defendant in the Complaint, but were able to identify Defendant by the Internet Protocol
12 address assigned by Defendant's Internet Service Provider – here, University of San Francisco
13 ("USF").

14 3. In order to determine Defendant's true identity, Plaintiffs filed their *Ex Parte*
15 Application for Leave to Take Immediate Discovery on September 20, 2007, seeking the Court's
16 permission to serve a Rule 45 subpoena on USF. The Court has not yet ruled on Plaintiffs' *Ex Parte*
17 Application for Leave to Take Immediate Discovery.

18 4. If the Court grants Plaintiffs' *Ex Parte* Application for Leave to Take Immediate
19 Discovery, Plaintiffs will attempt to determine Defendant's identity by serving a Rule 45 subpoena
20 on USF. If Defendant is identified, Plaintiffs will give Defendant written notice of their claim and
21 attempt to contact Defendant and resolve the dispute. If the dispute cannot be resolved, Plaintiffs
22 plan to file a First Amended Complaint naming Defendant individually and then proceed to serve
23 process upon him or her.

24 5. However, unless the Court grants Plaintiffs' *Ex Parte* Application for Leave to Take
25 Immediate Discovery, Plaintiffs cannot identify the Doe defendant, initiate settlement talks, or name
26 Defendant individually and begin service attempts.

27 6. Given the foregoing circumstances, and because there is no known defendant with
28 whom to confer, a case management conference is unnecessary at this time. Plaintiffs therefore

1 respectfully request that the Court continue the case management conference currently set for April
2 4, 2008 at 8:30 a.m. to July 11, 2008.

3 Dated: March 24, 2008

HOLME ROBERTS & OWEN LLP

5 By: /s/ Matthew Franklin Jaksa

6 MATTHEW FRANKLIN JAKSA

7 Attorney for Plaintiffs

10 **[PROPOSED] ORDER**

11 Good cause having been shown:

12 **IT IS ORDERED** that the case management conference currently set for April 4, 2008 at
13 8:30 a.m. be continued to July 11, 2008.

16 Dated: _____

16 By: _____

17 Honorable Charles R. Breyer

18 United States District Judge